

THE STROJNIK FIRM LLC

ATTORNEYS AT LAW

ESPLANADE CENTER III, 2415 EAST CAMELBACK ROAD, SUITE 700, PHOENIX, ARIZONA 85016

PHONE: 602.510.9409 | FAX: 602.296.0135 | WEBSITE: WWW.SKPLAW.COM

December 26, 2011

The Honorable Michael A. Shipp, U.S.M.J.
United States District Court, District of New Jersey
50 Walnut Street
Newark, New Jersey 07102

VIA ELECTRONIC FILING

Re: Dare Investments LLC v. Chicago Title Insurance Company,
No. 2:10-cv-06088-DRD-MAS

Dear Judge Shipp:

My Firm represents the interests of Plaintiff Dare Investments LLC in the matter above styled. Please allow this correspondence to serve as Plaintiff's request to compel Defendant Chicago Title Insurance Company to respond to Plaintiff's Request for Production of Documents dated August 24, 2011. The parties have not been successful in resolving the issues raised below.

This matter involves Chicago Title's refusal to honor a Title Policy issued in favor of Dare Investments in the amount of \$5,500,000.00. The Court has previously ruled that the exclusionary provisions under which Chicago Title disclaims coverage are ambiguous. The only remaining issue regarding the Title Policy is Dare's "reasonable expectation" of coverage. See Doc. 45 at 21 ("*[T]here remains a factual dispute regarding whether denying coverage under Exclusion 3(a) would defy the reasonable expectations of Dare under the title policy*") (emphasis supplied).

On August 24, 2011, Dare's counsel served Chicago Title with Amended Request for Production of Documents. See Exhibit 1 (*Amended First Request for Production of Documents*). Chicago Title made several requests for extensions of time to file responses, all of which were granted by Dare Investments. Finally, on October 14, 2011, Chicago Title responded. The Response contained no documents and no substantive responsive information. See Exhibit 2 (*Chicago Title's 24-page list of objections*). Instead, it was replete with standardized cut-and-paste objections completely irrelevant to the individual requests.

Following numerous conversations and attempts to resolve the discovery issue, Chicago Title finally produced documents stamped CTIC 00001-002617 and other non-bates stamped documents. The production of documents is lacking in all of the following respects:

1. There are no documents responsive to RPD #1:

REQUEST TO PRODUCE 1:

Please produce the Complete File relative to Chicago Title Insurance Company's business relationship with Horizon Title Agency, including without limitation Horizon Title Agency's authority to initiate, produce and/or issue policies of title.

2. There are no documents responsive to RPD #2:

REQUEST TO PRODUCE 2:

Please produce Horizon Title's and Chicago Title's underwriting rules, regulations, guidelines, procedures and/or opinions in effect on the Date of the Policy.

3. There are no documents responsive to RPD #3:

REQUEST TO PRODUCE 3:

Please produce all Documents that Horizon Title and/or Chicago Title reviewed on or prior to the Date of Policy regarding the Mortgage.

4. There are no documents responsive to RPD #4:

REQUEST TO PRODUCE 4:

Please produce the Complete File relative to the Policy, including all Communications, negotiations, and reserve information.

5. There are no documents responsive to RPD #5:

REQUEST TO PRODUCE 5:

Please produce Complete Files, including claims files, relating each Chicago Title policy issued in connection with any property or person involved in the Mocco/Licata Cases.

6. There are no documents responsive to RPD #6:

REQUEST TO PRODUCE 6:

Please produce the terms, conditions, covenants, court orders, etc, as set forth in the United States Bankruptcy Court, District of Connecticut, Bridgeport Division Case No. 02-50852 which You claim were the reason for the loss or damage to Dare.

7. There are no documents responsive to RPD #7:

REQUEST TO PRODUCE 7:

Please produce the Complete File relative to the investigations and searches referenced in the Invoice dated April 17, 2006 from Horizon Title Agency to Gordon Duval and the "due diligence" referenced in Item 9 of Schedule B1 of the Policy.

8. There are no documents responsive to RPD #8:

REQUEST TO PRODUCE 8:

Please produce the Complete Coverage Investigation File.

9. There are no documents responsive to RPD #9:

REQUEST TO PRODUCE 9:

Please produce each policy of title insurance in which You stated as fact or opinion the amount remaining due on the insured mortgage.

10. There are no documents responsive to RPD #10:

REQUEST TO PRODUCE 10:

Please produce the Complete File of Horizon Title's Financial Information for the period of January 1, 2005 through December 31, 2006.

11. There are no documents responsive to RPD #11:

REQUEST TO PRODUCE 11:

Please produce all written Communications and Recordings of verbal Communications, by and or between You, Horizon Title Agency, David Cohn, SWJ, Cobra/Ventura and/or any of their employees or agents for the period of January 1, 2005 and the present date.

12. There are no documents responsive to RPD #12:

REQUEST TO PRODUCE 12:

Please produce any Communications, agreements, understandings, proposals or negotiations arising out of or in connection with the Mocco/Licata Cases by or between any of the following: James Licata, Cynthia Licata, William Mournes, Gordon Duval, David Cohn, Dino Cancellieri, Horizon Title, and Chicago Title.

13. There are no documents responsive to RPD #13:

REQUEST TO PRODUCE 13:

Please produce any statements, affidavits, declarations, certifications and draft copies thereof and testimony or depositions by any agent of Horizon Title and Chicago Title, including David Cohn and Dino Cancellieri, relative to any Mocco/Licata Cases.

14. There are no documents responsive to RPD #14:

REQUEST TO PRODUCE 14:

Please produce all Recordings and Communications relative to the reserve assigned to Dare Investment's claim under the Policy.

15. There are no documents responsive to RPD #15:

REQUEST TO PRODUCE 15:

Please produce all Documents disclosed in your Disclosure Statement.

16. There are no documents responsive to RPD #16:

REQUEST TO PRODUCE 16:

Please produce all Documents reviewed, consulted, or relied upon in preparing Your Answers to Interrogatories.

17. There are no documents responsive to RPD #17:

REQUEST TO PRODUCE 17:

Please produce all policies of insurance that do or may provide coverage to Chicago Title for Chicago Title's own errors, omissions or acts and the errors, omissions or acts of Horizon Title.

18. The production did not contain a privilege log.

19. The e-mails that were produced clearly indicate that the e-mails were preceded by other e-mails that were not produced.

20. Since the coverage investigation in the 2007 time frame (to be distinguished from trial preparation in 2011, see Rule 26(b)(3)), was conducted by Messrs. O'Donnell and Freijomil, the entire Riker Danzig investigation file prepared prior to the initiation of this lawsuit is discoverable. Messrs. O'Donnell and Freijomil, as the coverage investigators, are witnesses in this matter. Therefore, we need to discuss the disclosure of the investigation file. See MorEquity v. Chicago Title, 2:06-cv-05890-SDW-MCA; Hatco v. WR Grace & Co, 1991, WL 83128 9D.N.J.) (Documents prepared before denial letter are discoverable).

Dare Investments respectfully requests that the Court schedule a time at its convenience to discuss these matters further.

Very Truly Yours,



Peter Kristofer Strojnik

Very Truly Yours,

/s/ Christopher Humphrey

Christopher Humphrey

CC:

Mike O'Donnell
Derrick Freijomil
Jonathan Sandler
Peter Strojnik
Rick McCloskey
Via e-mail and ECF